



March 10, 2020

Mary B. Neumayr
Chair
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Re: Docket No. CEQ-2019-0003, Notice of Proposed Rulemaking, Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

Dear Ms. Neumayr:

The League of Women Voters of the United States urges the Council on Environmental Quality (CEQ) to withdraw the Notice of Proposed Rulemaking (NPRM) and retain the existing CEQ regulations that properly implement the National Environmental Policy Act (NEPA).

The League supports climate policies that are consistent with the best available climate science and that ensure a stable climate for future generations. The proposed changes eliminate public input on large federal projects and replace science-based review of project impact with industry, developer, and polluter financial interests. The changes create significant risks for frontline and indigenous communities that are already disproportionately harmed by pollution, flooding, and climate change.

Public understanding and cooperation are essential to the responsible and responsive management of our nation's natural resources. The public has a right to know about pollution levels, dangers to health and the environment, and proposed resource management policies and options. The public has a right to participate in decision-making at each phase in the process and at each level of government involvement. Officials should make a special effort to develop readily understandable procedures for public involvement and to ensure that the public has adequate information to participate effectively. Public records should be readily accessible at all governmental levels. Adequate funding is needed to ensure opportunities for public education and effective public participation in all aspects of the decision-making process.

The appropriate level of government should publicize, in an extensive and timely manner and in readily available sources, information about pollution levels, pollution abatement programs, and resource management policies and options. Hearings should be held in easily accessible locations, at convenient times and, when possible, in the area concerned.

The hearing procedures and other opportunities for public comment should actively encourage citizen participation in decision-making.

The League supports public education that provides a basic understanding of the environment and the social, economic, and environmental costs and benefits of environmental protection, pollution control, and conservation. Mechanisms for citizen appeal must be guaranteed, including access to the courts. Due process rights for the affected public and private parties must be assured.

The proposed changes in the NPRM expressly defy some of the Leagues supported policy recommendations. Specifically, the NPRM would:

- 1. Eliminate NEPA review for many projects:** The proposal attempts to exclude many projects from environmental review and public input under NEPA. Among other things, the NPRM creates new tests for determining whether NEPA applies at all to a project (including by changing the definition of “major federal action”) and allows agencies to exempt a project from NEPA review by determining that some other type of analysis would serve the same purpose. These changes could allow agencies to move forward with controversial projects – including building pipelines, roads, dams, floodgates, and levees – without any NEPA review or opportunity for public comment.
- 2. Ignore severe environmental, public safety, and health impacts:** The proposal would severely limit the types of impacts examined during a NEPA review. The NPRM’s directive that analysis of cumulative effects “is not required” would eliminate review of a project’s role in increasing climate change and many other types of harm. It would also dispense with review of rising sea levels, stronger storms, and other climate change impacts on the effectiveness and resilience of a proposed project. Agencies could also ignore many types of severe impacts based on the NPRM’s elimination of all references to “indirect” effects, and its directive to review only impacts with a “reasonably close causal relationship” to the proposed action. These changes could let agencies ignore the long-term impacts of toxic pollution from gold or copper mines; the risks of diverting floodwaters onto downstream communities by building new levees upstream; and loss of wetlands caused by reservoir management practices that starve a river of the water flows needed to sustain those wetlands.
- 3. Allow projects to be approved even if critical scientific and technical information is missing:** The proposal would give agencies the green light to make decisions without scientific and technical information essential to making a reasoned choice among project alternatives. The NPRM specifically states that agencies “are not required to undertake new scientific and technical research to inform their analyses.” This could let agencies approve navigation infrastructure, major river dredging projects, reservoir operating plans, and large flood projects without conducting the research needed to understand the impacts of those projects on flooding, habitat loss, or ecosystem health.



4. **Significantly weaken the review of alternatives:** The proposal would significantly weaken the assessment of alternatives during a NEPA review, dramatically undermining NEPA's fundamental purpose of exploring less environmentally harmful approaches to achieving the project purpose. The NPRM eliminates the requirements to "rigorously explore and objectively evaluate all reasonable alternatives" and to consider reasonable alternatives not within the jurisdiction of the lead agency. The NPRM instead directs a much less extensive review, requiring only that agencies "evaluate reasonable alternatives to the proposed action."

5. **Allow agencies to ignore critical public input:** The proposal creates loopholes that could let federal agencies ignore public comments, effectively silencing the communities and individuals that could be harmed most by a federal action. The NPRM would let agencies ignore public comments that they deem are not "specific" enough or do not include reference to data sources or scientific methodologies. The NPRM improperly places the burden on the public to list *any and all* possible impacts of a proposed project; to provide specific language changes; and to "explain why an issue raised is significant" to the consideration of impacts to the environment, the economy, employment and potential alternatives. Comments most likely to be ignored include those from the general public; those from frontline communities without resources to fund technical reviews; and those that rely on traditional knowledge rather than technical data. The NPRM also creates new hurdles to challenging a flawed environmental review in court.

6. **Allow project applicants to write their own environmental reviews without conflict of interest safeguards:** The proposal eliminates longstanding safeguards designed to protect the independence and integrity of environmental reviews. Under the current regulations, the federal agencies prepare NEPA reviews and agencies can only hire consultants to assist in a NEPA review after obtaining disclosures of any conflicts of interest or financial stakes in the project the contractor would be reviewing. The NPRM, however, lets companies prepare their own NEPA reviews – despite their clear interest in obtaining project approval. Agencies could also hire contractors without obtaining a conflicts of interest disclosure.

The League urges CEQ to withdraw the NPRM and retain the existing NEPA implementing regulations.

Sincerely,

A handwritten signature in cursive script that reads "Chris Carson". The signature is written in black ink and is positioned above the typed name.

Chris Carson
President
League of Women Voters of the United States